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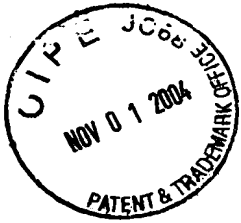
ALEXANDRIA, VA 22313-1450, ON **October 29, 2004** by

Audrey A. Boyd

Audrey A. Boyd

October 29, 2004

DATE



Attorney Docket No. B45110C1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-------------|---|----------------------------------|
| Applicant: | Bruck et al. | October 29, 2004 |
| Serial No.: | 10/687,060 | Group Art Unit: Not Yet Assigned |
| Filed: | October 16, 2003 | Examiner: Not Yet Assigned |
| For: | FUSION PROTEINS COMPRISING HIV-1 TAT AND/OR NEF PROTEINS | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition Under 37 CFR 1.53(c)

Sir:

Applicants file this Petition to present evidence of deposit of Figure 2 of the referenced application with the nonprovisional application papers filed on October 16, 2003. Authorization is hereby granted to charge the Petition Fee under 37 CFR 1.17(h) of \$130.00, and all other necessary fees, to Deposit Account 19-2570.

On September 13, 2004, the United States Patent & Trademark Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. Applicants provided the following documents to the United States Patent & Trademark Office on October 19, 2004:

- Statement to Support Filing and Submission in Accordance with 37 CFR §§1.821 Through 1.825,
- Sequence Listing,

- Diskette,
- Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, and
- Postcard.

The United States Patent & Trademark Office also advised that Figure 2 appears to have been omitted from the application. This issue was not resolved in the documents submitted to the Patent Office on October 19, 2004.

Applicant respectfully states that Figure 2 was in fact deposited in the United States Patent and Trademark Office with the filing of the Continuation Application papers on October 16, 2003. The specification that was included with the filing of the Continuation Application Transmittal form contained, immediately following the claims, 17 pages of figures numbered 1/17, 2/17, 3/17, etc. It should be noted, however, that the identifying label "Figure 2" was inadvertently omitted from the Figure. Figure 2 is represented in drawing form and can be identified in the original specification as Figure pages 2/17 through 9/17.

Additionally, Applicant asserts that, when filing the instant application, the Incorporation by Reference box was checked, stating "the entire disclosure of the prior application, from which a copy of the oath or declaration was supplied, was considered as being part of the disclosure of the accompanying application and was thereby incorporated by reference therein".

Accordingly, the formal drawings, addressing the labeling of the figures, were filed and accepted in the parent application (Application No. 09/509,239, filed March 23, 2000).

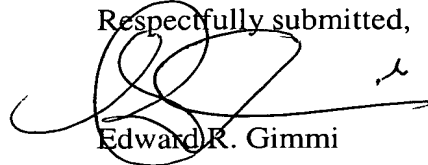
A copy of the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures accompanies this Petition.

USSN: 10/687,060

Group Art Unit: Not Yet Assigned

Applicants request refund of the Petition Fee upon a determination that the item was received by the United States Patent & Trademark Office.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward R. Gimmi", is written over the typed name.

Edward R. Gimmi

Attorney for Applicants

Registration No. 38,891

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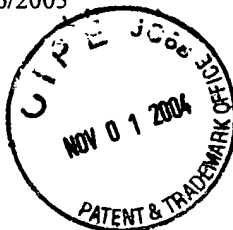
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/687,060 | 10/16/2003 | Claudine Bruck | B45110C1 |

LWRM

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King of Prussia, PA 19406-0939



CONFIRMATION NO. 8921

FORMALITIES LETTER



OC000000013790263

Date Mailed: 09/13/2004

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Filing Date Granted

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c) Applicant must provide an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

The following item(s) appear to have been omitted from the application:

- Figure(s) 2 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and

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\$130.00 petition fee (37 CFR 1.17(h)) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

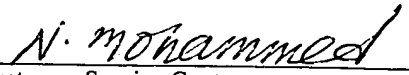
Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*


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